

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERK'S OFFICE

2004 SEP 29 P 3: 57

U.S. DISTRICT COURT
DISTRICT OF MASS.

PAUL J. McNALLY, as he is TRUSTEE,
MASSACHUSETTS LABORERS' HEALTH AND
WELFARE FUND and NEW ENGLAND LABORERS'
TRAINING TRUST FUND; JAMES MERLONI, JR.,
as he is TRUSTEE, MASSACHUSETTS LABORERS'
PENSION FUND and MASSACHUSETTS LEGAL
SERVICES FUND; MARTIN F. WALSH, as he is
TRUSTEE, MASSACHUSETTS LABORERS'
ANNUITY FUND,

Plaintiffs

vs.

DERBES REALTY TRUST,
Defendant

and

WEYMOUTH CO-OPERATIVE BANK,
Trustee

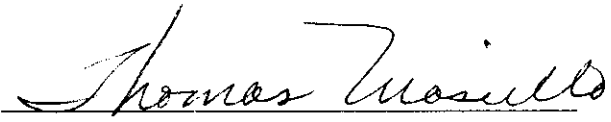
C.A. No. 03-12609 DPW

**AFFIDAVIT OF THOMAS MASIELLO AS TO
MILITARY SERVICE, INFANCY AND INCOMPETENCE**

1. My name is Thomas Masiello. I am the Administrator of the Massachusetts Laborers' Benefit Health and Welfare Fund.
2. I make this affidavit pursuant to the provisions of the Soldiers' and Sailors' Civil Relief Act.
3. I have caused careful investigation to be made to ascertain whether Derbes Realty Trust, the above-named defendant, is within the military service of the United States, and have concluded on the basis of such investigation that it is not.

4. I have also caused careful investigation to be made to ascertain whether Derbes Realty Trust is an infant or incompetent person, and have concluded on the basis of such investigation that it is not.

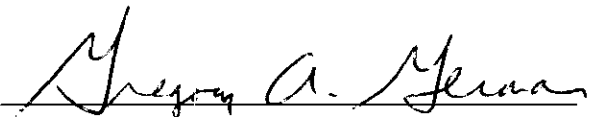
SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 21 DAY OF JUNE, 2004.


Thomas Masiello

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above Affidavit has been served by certified and first class mail upon Derbes Realty Trust at 44 Branch Street, Quincy, MA 02169 this ____ day of June, 2004.

~~August~~
September


Gregory A. Geiman, Esquire